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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,903	07/25/2001	Onur Celebioglu	16356.642 (DC-02950)	6593
27683	7590	11/09/2005	EXAMINER	
HAYNES AND BOONE, LLP 901 MAIN STREET, SUITE 3100 DALLAS, TX 75202			YAO, KWANG BIN	
			ART UNIT	PAPER NUMBER
			2667	

DATE MAILED: 11/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/912,903

Applicant(s)

CELEBIOGLU ET AL.

Examiner

Kwang B. Yao

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Newly submitted claim 23 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Invention I (claims 1-22) and Invention II (claim 23) are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as “receive a packet; detect a first protocol associated with the packet; cause the first indicator to be activated in response to detecting the first protocol; detect a second protocol associated with the packet; and cause the second indicator to be activated in response to detecting the second protocol”; Invention II has separate utility such as “each of the sets of indicators being associated with a different one of a plurality of platform layers including: a transport layer; a network layer; a data link layer; and a physical layer”. See MPEP § 806.05(d).

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 23 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Claim Rejections - 35 USC § 112***

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2. Claims 1-9, 12-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 4, "the indicators" lacks antecedent basis. It is suggested to replace "the indicators" by "the first and second indicators" if that is the intended limitation. The same problem is found in claim 12.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Paatela et al. (US 2002/0163935).

Paatela et al. discloses a communication system comprising the following features:  
regarding claim 1, a system comprising: a first indicator (segments included one or more of memory locations 718-734 in Fig. 7, see [0077]); a second indicator (segments included one or more of memory locations 718-734 in Fig. 7, see [0077]); each of the indicators being associated with a plurality of platform layers (OSI networking layers two through four, see [0077]) and a plurality of protocols (PPP, MPLS, IP, TCP, see [0077]); and a device associated with the first indicator (segments included one or more of memory locations 718-734 in Fig. 7, see [0077])

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and the second indicator (segments included one or more of memory locations 718-734 in Fig. 7, see [0077]); the device configured to: receive a packet (Fig. 7, PACKET INPUT 706, INPUT CONTROLLER 740); detect a first protocol (PPP, see [0077]) associated with the packet; cause the first indicator (segments included one or more of memory locations 718-734 in Fig. 7, see [0077]) to be activated in response to detecting the first protocol (PPP, see [0077]); detect a second protocol (MPLS, see [0077]) associated with the packet; and cause the second indicator (segments included one or more of memory locations 718-734 in Fig. 7, see [0077]) to be activated in response to detecting the second protocol (MPLS, see [0077]); regarding claim 2, wherein the device includes a router (see [0010]); regarding claim 3, wherein the device includes a switch (see [0010]); regarding claim 4, wherein the device includes a storage device (Fig. 7, memory 716, memory 703); regarding claim 5, wherein the device includes a network interface card (see [0043]); regarding claim 6, wherein the packet includes a first header (see [0077]) and a second header (see [0077]), wherein the device is configured to detect the first protocol (PPP, see [0077]) in response to the first header (see [0077]), and wherein the device is configured to detect the second protocol (MPLS, see [0077]) in response to the second header (see [0077]); regarding claim 7, wherein the device includes at least one hardware component configured (Fig. 7, INPUT CONTROLLER 740) to detect the first protocol (PPP, see [0077]) and the second protocol (MPLS, see [0077]); regarding claim 8, wherein the device includes a program configured to detect the first protocol (PPP, see [0077]) and the second protocol (MPLS, see [0077]); regarding claim 9, wherein the program includes a device driver; regarding claim 10, providing a plurality of indicators, each indicator being associated with a plurality of platform layers (OSI networking layers two through four, see [0077]) and a plurality of protocols (PPP,

MPLS, IP, TCP, see [0077]); receiving a packet (Fig. 7, PACKET INPUT 706, INPUT CONTROLLER 740); detecting a first protocol (PPP, see [0077]) associated with the packet; causing a first indicator (segments included one or more of memory locations 718-734 in Fig. 7, see [0077]) to be activated in response to detecting the first protocol (PPP, see [0077]) associated with the packet; detecting a second protocol (MPLS, see [0077]) associated with the packet; and causing a second indicator (segments included one or more of memory locations 718-734 in Fig. 7, see [0077]) to be activated in response to detecting the second protocol (MPLS, see [0077]) associated with the packet; regarding claim 11, detecting the first protocol (PPP, see [0077]) in response to a first header (see [0077]) included in the packet; and detecting the second protocol (MPLS, see [0077]) in response to a second header (see [0077]) included in the packet; regarding claim 12, a system comprising: a first indicator (segments included one or more of memory locations 718-734 in Fig. 7, see [0077]); a second indicator (segments included one or more of memory locations 718-734 in Fig. 7, see [0077]); each of the indicators being associated with a plurality of platform layers (OSI networking layers two through four, see [0077]) and a plurality of protocols (PPP, MPLS, IP, TCP, see [0077]); and a device associated with the first indicator (segments included one or more of memory locations 718-734 in Fig. 7, see [0077]) and the second indicator (segments included one or more of memory locations 718-734 in Fig. 7, see [0077]); the device configured to: transmit a packet; detect a first protocol (PPP, see [0077]) associated with the packet; cause the first indicator (segments included one or more of memory locations 718-734 in Fig. 7, see [0077]) to be activated in response to detecting the first protocol (PPP, see [0077]); detect a second protocol (MPLS, see [0077]) associated with the packet; and cause the second indicator (segments included one or more of memory locations 718-734 in Fig.

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7, see [0077]) to be activated in response to detecting the second protocol (MPLS, see [0077]); regarding claim 13, wherein the device includes a router (see [0010]); regarding claim 14, wherein the device includes a switch (see [0010]); regarding claim 15, wherein the device includes a storage device (Fig. 7, memory 716, memory 703); regarding claim 16, wherein the device includes a network interface card (see [0043]); regarding claim 17, wherein the packet includes a first header (see [0077]) and a second header (see [0077]), wherein the device is configured to detect the first protocol (PPP, see [0077]) in response to the first header (see [0077]), and wherein the device is configured to detect the second protocol (MPLS, see [0077]) in response to the second header (see [0077]); regarding claim 18, wherein the device includes at least one hardware component configured (Fig. 7, INPUT CONTROLLER 740) to detect the first protocol (PPP, see [0077]) and the second protocol (MPLS, see [0077]); regarding claim 19, wherein the device includes a program configured to detect the first protocol (PPP, see [0077]) and the second protocol (MPLS, see [0077]); regarding claim 20, wherein the program includes a device driver; regarding claim 21, a method comprising: providing a plurality of indicators, each indicator being associated with a plurality of platform layers (OSI networking layers two through four, see [0077]) and a plurality of protocols (PPP, MPLS, IP, TCP, see [0077]); transmitting a packet; detecting a first protocol (PPP, see [0077]) associated with the packet; causing a first indicator (segments included one or more of memory locations 718-734 in Fig. 7, see [0077]) to be activated in response to detecting the first protocol (PPP, see [0077]) associated with the packet; detecting a second protocol (MPLS, see [0077]) associated with the packet; and causing a second indicator (segments included one or more of memory locations 718-734 in Fig. 7, see [0077]) to be activated in response to detecting the second protocol (MPLS, see [0077])

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associated with the packet; regarding claim 22, further comprising: detecting the first protocol (PPP, see [0077]) in response to a first header (see [0077]) included in the packet; and detecting the second protocol (MPLS, see [0077]) in response to a second header (see [0077]) included in the packet. See pages 1-15.

### ***Response to Arguments***

5. Applicant's arguments filed 8/15/05 have been fully considered but they are not persuasive.

On page 8, second paragraph, Applicant argues that the independent claims 1, 10, 12, 21 and 23 include the limitations of "each of the indicators being associated with a plurality of platform layers and a plurality of protocols", which is not anticipated by the reference of Paatela et al. Examiner respectfully disagrees with this argument. Paatela et al. discloses that each of segment of memory 716 is associated with a OSI networking layers two through four, and a plurality of protocols, such as PPP, MPLS, IP, TCP. See page 7, [0077]. Therefore, it is respectfully maintained that the reference of Paatela et al. does anticipate the claimed invention.

On pages 8, third paragraph, through the second paragraph of page 10, Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

### ***Conclusion***



6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

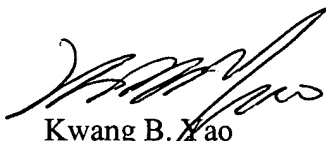
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kwang B. Yao whose telephone number is 571-272-3182. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi H. Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KWANG BIN YAO  
PRIMARY EXAMINER



Kwang B. Yao  
November 7, 2005